

April 11, 2025

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

Re: GN Docket No. 25-133

Dear Ms. Dortch:

The 21st Century Privacy Coalition (“Coalition”)¹ supports the enactment of a comprehensive national privacy and data security law that creates a holistic framework for the entire online ecosystem. Such framework should be enforced by the Federal Trade Commission and preempt the Federal Communications Commission’s (“Commission”) privacy and data security authority. The Coalition is pleased to provide these comments in response to the Commission’s *In Re: Delete, Delete, Delete* Public Notice.²

The Coalition is grateful that the Commission is soliciting feedback on “identifying FCC rules for the purpose of alleviating unnecessary regulatory burdens” and “deregulatory initiatives that would facilitate and encourage American firms’ investment in modernizing their networks, developing infrastructure, and offering innovative and advanced capabilities.”³

As the Public Notice acknowledges, “[t]he Communications Act directs the FCC to regularly review its rules to identify and eliminate those that are unnecessary in light of current

¹ The Coalition is comprised of many of the nation’s leading communications companies. Our member-companies have a significant interest in fortifying the trust of consumers in their online experiences, and confidence in the privacy and security of their personal information.

² *In Re: Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. Mar. 12, 2025) (“Public Notice”).

³ *Public Notice* at 1.

circumstances, recognizing that in addition to imposing unnecessary burdens, unnecessary rules may stand in the way of deployment, expansion, competition, and technological innovation in communications that the Commission is directed to advance.”⁴ This is also consistent with President Trump’s interest in addressing the problems associated with unnecessary and burdensome regulations: “The ever-expanding morass of complicated Federal regulation imposes massive costs on the lives of millions of Americans, creates a substantial restraint on our economic growth and ability to build and innovate, and hampers our global competitiveness.”⁵

President Trump has further recognized that “[u]nlawful, unnecessary, and onerous regulations impede [economic growth and American innovation] and impose massive costs on American consumers and American businesses.”⁶ As President Trump stated, the U.S. Supreme Court has issued recent rulings that establish appropriate restraints on regulatory actions. However, notwithstanding these decisions, “unlawful regulations — often promulgated in reliance on now-superseded Supreme Court decisions — remain on the books.”⁷ The Commission should use this proceeding to eliminate such regulations.

While there are many Commission regulations that warrant review, the Coalition focuses its comments on the Commission’s rules related to Customer Proprietary Network Information (“CPNI”).⁸ These rules implement Section 222 of the Communications Act of 1934.⁹ The Commission’s CPNI rules, many of which date back almost thirty years, include a number of provisions that exceed the Commission’s statutory authority, are substantially outdated, and

⁴ *Id.*

⁵ Unleashing Prosperity Through Deregulation, Presidential Memorandum, Jan. 31, 2025.

⁶ Directing the Repeal of Unlawful Regulations, Presidential Memorandum, Apr. 9, 2025.

⁷ *Id.*

⁸ 47 CFR Part 64, Subpart U.

⁹ 47 U.S.C. § 222.

impose unnecessary and burdensome costs on telecommunications carriers without providing consumers with corresponding benefits. The legality of the CPNI rules are also particularly suspect given the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*.¹⁰

The CPNI rules apply uniquely to telecommunications carriers. In addition to imposing costs on telecommunications carriers, such rules put telecommunications carriers at a competitive disadvantage, as other industries that do not fall under the Commission’s authority face far less-stringent requirements. The Commission’s cumbersome rules impose an array of prescriptive obligations ranging from recordkeeping and notice requirements, on the one hand, to outright prohibitions, on the other hand, that hinder a telecommunications carrier’s ability to conduct core aspects of its business, such as informing its own customers about different offerings that may be less expensive or provide additional and better services. In addition, many of these requirements do not provide any corresponding benefits to consumer privacy, given the presence of other federal and state privacy requirements.

The Commission should therefore initiate a proceeding to repeal and, where appropriate, replace, outdated and economically distorting rules. A non-exhaustive list of rules that the Commission should reconsider includes:

- Sections 64.2005 and 64.2007, which establish a regulatory regime governing a telecommunications carrier’s marketing practices premised on legacy categories of services.

¹⁰ *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024).

- Section 64.2008, which requires a telecommunications carrier to maintain, for at least one year, a record of individual notices to customers for the approval to use, disclose, or permit access to a customer's CPNI. Such notices are required under Section 64.2008(b).
- Section 64.2008(c), which imposes minute details regarding the contents of a telecommunications carrier's customer notifications, as well as an anachronistic consent regime that is inconsistent with modern privacy laws that rely upon a sensitivity-based consent model.
- Section 64.2008(d), which establishes detailed requirements regarding notice that telecommunications carriers must provide to obtain opt-out approval; the period of time a telecommunications carrier must wait before assuming a customer's approval to use, disclose, or permit access to CPNI; and the frequency with which a telecommunications carrier must provide such notice. This provision imposes additional requirements if a telecommunications carrier uses email to provide an opt-out notice.
- Section 64.2008(e), which specifies the notice requirements for obtaining opt-in consent.
- Section 64.2008(f), which specifies notice requirements for the one-time use of CPNI.
- Section 64.2009(c), which requires telecommunications carriers to maintain records of sales and marketing campaigns that utilize CPNI. Such records must include a description of each campaign, the specific CPNI that was utilized, and the products and services that were offered. These records must be maintained for at least one year.
- Section 64.2009(d), which requires a supervisory review process for outbound marketing. Sales personnel must obtain supervisory approval for any proposed outbound marketing

request for customer approval. Records of carrier compliance must be maintained for at least one year.

- Section 64.2009(e), which requires a telecommunications carrier's officer to sign and file an annual compliance certificate with the Commission, including that the officer has personal knowledge that the company has established operating procedures to ensure compliance.
- Section 64.2009(f), which requires a telecommunications carrier to provide written notice within five business days to the Commission if an opt-out mechanism does not work properly.
- Section 64.2011, which imposes carrier-specific reporting and notice requirements for data security incidents.

The Coalition appreciates the opportunity to provide this input to the Commission. There are many rules that impose unnecessary costs without providing corresponding consumer benefits. These rules also put companies subject to the Commission's jurisdiction at a competitive disadvantage as compared to other industries. We appreciate the Commission's re-evaluation of its rules, and we hope that this re-evaluation results in the elimination of many unnecessary and burdensome requirements.

Sincerely,

/s/ Howard Waltzman

Howard Waltzman
Counsel for 21st Century Privacy Coalition